

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: CATHODE RAY TUBE (CRT)
ANTITRUST LITIGATION

MDL No. 1917

Case No. 07-cv-05944-JST

This order relates to:

**ORDER REQUIRING RESPONSES
RE: TRIAL SCHEDULING**

ALL DIRECT PURCHASER ACTIONS
ALL INDIRECT PURCHASER ACTIONS

Before the Court is a dispute over the trial scheduling of the Direct Purchaser Plaintiffs' ("DPPs") actions against the two Irico Defendants, Irico Group Corporation and Irico Display Devices Co., Ltd. (collectively, "Irico"). ECF No. 6069. The Court previously held that Irico Group was an instrumentality of China when this case was filed in 2007, but that Irico Display was not. ECF No. 5637 at 7-8. Based on these rulings, DPPs and Irico agree that Irico Group, but not Irico Display, is entitled to demand a nonjury trial under 28 U.S.C. § 1330. DPPs initially suggested that Irico Group should waive its right to a nonjury trial, ECF No. 6058 at 8 – which Irico Group now wants to do, ECF No. 6069 at 3. But DPPs now argue that such a right cannot be waived. *Id.* at 2.

DPPs appear to be correct that a nonjury trial is required for Irico Group. *E.g., Universal Consol. Companies, Inc. v. Bank of China*, 35 F.3d 243, 245 (6th Cir. 1994) (affirming denial of plaintiff's request for a jury trial in case brought under the Foreign Sovereign Immunities Act and explaining that "all federal appellate courts which have considered the issue – including the Second, Third, Fourth, Fifth, and Eleventh Circuits – have held that jury trials are not available in suits brought under the Act"). However, this does not necessarily require the Court to conduct two separate trials, as DPPs propose. For example, the Seventh Circuit has explained that a

1 “nonjury trial” under the Foreign Sovereign Immunities Act means that a decision “must be
2 rendered by the judge rather than by a jury” but does not mean “that the trial must be conducted in
3 the absence of a jury.” *Olympia Express, Inc. v. Linee Aeree Italiane, S.P.A.*, 509 F.3d 347, 353
4 (7th Cir. 2007).

5 Although this issue arose only with respect to the DPP actions, it would appear to impact
6 the trial for the Indirect Purchaser Plaintiffs’ (“IPPs”) actions as well. The IPP actions are
7 currently scheduled to have a single jury trial against both Irico Group and Irico Display, but, as
8 discussed above, a nonjury trial appears to be required for Irico Group.

9 The Court therefore proposes to conduct a single trial for the IPP actions, with the case
10 against Irico Group to be decided by the Court and the case against Irico Display to be decided by
11 a jury, and to conduct a separate single trial for the DPP actions, again with the case against Irico
12 Group to be decided by the Court and the case against Irico Display to be decided by a jury. The
13 parties shall meet and confer regarding this proposal and file a joint statement setting forth their
14 respective positions by September 30, 2022.

15 **IT IS SO ORDERED.**

16 Dated: September 14, 2022

17 
18 JON S. TIGAR
United States District Judge